

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

BRIDGETTE DARLENE HERRING
and JAMES EDWARD HERRING,

Plaintiff,

v.

RI TN 2, LLC; CIRCLE K STORES, INC.;
and MAC’S CONVENIENCE STORES, LLC,

Defendants.

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Case No. 1:20-cv-341

JURY DEMANDED

NOTICE OF REMOVAL

Without submitting to the jurisdiction of this Court and without waiving any available defenses, including, without limitation, lack of jurisdiction, improper venue, statute of limitations, insufficient process, or insufficient service of process, Defendants RI TN 2, LLC (“RI TN 2”); Circle K Stores, Inc. (“Circle K”); and Mac’s Convenience Stores, LLC (“Mac’s”), by and through undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby file this Notice of Removal of the above-described action to the United States District Court for the Eastern District of Tennessee from the Circuit Court for Hamilton County, Tennessee, where the action is now pending, and state as follows:

1. Plaintiff Bridgette Darlene Herring (“Darlene Herring”) and James Edward Herring (“James Herring”), filed this personal injury action in the Circuit Court for Hamilton County, Tennessee, on November 13, 2020, and Defendants received service on or about November 23, 2020. Thus, removal is timely.

2. In their Complaint (**EXHIBIT A**), the Plaintiffs seek compensation in connection with purported injuries and damages suffered as a result of a slip and fall incident that allegedly occurred at a property owned by and/or where a business is operated by the Defendants. This Court

has jurisdiction by reason of the diversity of citizenship of the parties.

3. At the time of commencement of this action in the Circuit Court for Hamilton County, Tennessee, and since that time, the Plaintiffs were and continue to be citizens and residents of Chattanooga, Hamilton County, Tennessee. *See* **EXHIBIT A**, ¶ 1.

4. RI TN 2 is a limited liability company organized under the laws of and with a principal place of business in the State of Delaware. Its sole member is Realty Income Corporation, an entity incorporated in the State of Maryland and with a principal place of business in the State of California. Therefore, RI TN 2 is not a citizen of the State of Tennessee.

5. Circle K is an entity incorporated and with a principal place of business in the State of Texas. Therefore, Circle K is not a citizen of the State of Tennessee.

6. Mac's is a limited liability company organized under the laws of the State of Delaware. Its members are not citizens of Tennessee. Therefore, Mac's is not a citizen of the State of Tennessee.

7. On its face, the Plaintiffs Complaint seeks more than \$75,000 in compensatory damages from the Defendants. Plaintiff Darlene Herring seeks compensation "for all injuries and damages sustained in an amount...not to exceed [\$750,000]". *See* **EXHIBIT A**. Plaintiff James Herring seeks compensatory damages of "no less than [\$25,000]" for loss of consortium. *See* **EXHIBIT A**. Therefore, this Court may exercise jurisdiction over Plaintiff Darlene Herring's claims under 28 U.S.C. § 1332(a) and Plaintiff James Edwards's claims under 28 U.S.C. § 1367.

8. Copies of all pleadings and orders served upon Defendants are filed with this Notice and attached as **EXHIBIT A**.

9. Defendants shall provide written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d).

10. Defendants shall file a copy of this Notice of Removal with the Clerk of the Circuit Court for Hamilton County, Tennessee, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants RI TN 2, LLC; Circle K Stores, Inc.; and Mac's Convenience Stores, LLC respectfully request this action proceed in this Court as an action properly removed to it.

This 8th day of December, 2020.

Respectfully submitted,

CARR ALLISON

By: /s/ Derek W. Mullins
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CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2020, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

James W. Clements, III, Esq.
J. Drew Clements, Esq.
Tom Bible Law
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Chattanooga, TN 37421

By: /s/ Derek W. Mullins
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